REMARKS

Claims 1-26 are pending in the present application, with claims 1, 9, and 18 being the independent claims. In summary of the outstanding office action, claims 8, 17, 26 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Interview Summary

Applicants thank the examiner for the interview granted to applicants' representative on September 5, 2006. Applicants' representative discussed with the examiner the differences between an intermediate language compiler and object code. The examiner contended that he was taking the view that object code could be considered an intermediate language. Examiner and applicant also discussed a just in time compiler example but the examiner indicated that such an example was not claimed. Applicants respond to some of the issues raised by the examiner below.

Claim Rejections – 35 U.S.C. § 112

Claims 8, 17, and 26 were rejected as being indefinite. Applicants have amended the claims as suggested by the examiner.

Claim Rejections – 35 U.S.C. § 101

Claims 18-26 are directed to a computer readable medium, which may include "modulated data signal such as a carrier wave..." and "...Combinations of any of the above should also be included within the scope of computer readable media."

Of course, carrier waves and modulated signals are physical phenomena regardless of what is said in the USPTO guidelines. Nevertheless, in order to expedite prosecution of this application, applicant has amended the claim to indicate that the instructions are stored on a computer-readable medium.

Claim Rejections – 35 U.S.C. § 103

Claims 1-2, 6-10, 15-19, and 24-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Admitted Prior Art (APA) in view of U.S. Patent No. 6,769,115 to

Oldman. With respect to claim 1, the examiner indicates that the APA discloses *a computer system, comprising:*

> a processor (e.g., page 2: 2-10);
>
> an operating system having a selected driver that interacts with a computing component (e.g., page 1: 7-13);
>
> a plurality of application instructions (e.g., page 1: 27-28), said instructions being in an intermediate language readable by an intermediate language compiler (e.g., page 2:11-16);
>
> a plurality of runtime instructions, said instructions being in an intermediate language readable by an intermediate language compiler (e.g., page 1: 21-26); and
>
> an intermediate language compiler (e.g., page 2: 11-17).

Action p. 5.

The examiner then indicates that the APA does not explicitly disclose "[said intermediate language compiler] compiles the application instructions and the runtime instructions into instructions executable by the processor for interacting with the selected driver." Nevertheless that examiner contends that Oldman discloses "[said intermediate language compiler] compiles the application instructions and the runtime instructions into instructions executable by the processor for interacting with the selected driver" citing (e.g., FIG. 3, compiling Application Source 103 and Adl Headers 105 and Libraries 106 into Application Binary 107(a-c), and related text in col.6: 50 - col.7: 9). Action p. 5. Applicants respectfully disagree with the examiner's characterization of the cited passage of Oldman.

Oldman does not teach an intermediate language compiler as claimed by the applicant. Rather Oldman teaches a compiler:

> specific to the high-level language in which application source 103 is written and to the development platform 121 upon which application source 103 is begin developed. Compiler 107 complies application source 103 to produce application binaries 113, which will execute on platform 121.

Applicants note that claim 1, as amended, recites "an intermediate language compiler capable of compiling the application instructions and the runtime instructions into *a combined set of* instructions executable by the processor for interacting with the selected

driver." (Emphasis added.) Applicants submit that the object code system taught by Oldman does not teach compiling into a combined set of instructions.

For at least the foregoing reasons, independent claims 1 patentably defines over APA in view of Oldman. Inasmuch as claims 2-8 depend from claim 1, Applicants submit that they also patentably define over the cited references at least for the same reasons.

Regarding independent claims 9 and 18, the examiner reiterated the rejection of claim 1. Applicants reiterate the arguments above. Moreover, Applicants submit the claimed "compiling the application program and the runtime program into a single executable program for execution on a target computer system" further clarifies the distinction. For that reason all of the elements of claim 9 are not taught by Oldman and in not taught by APA in view of Oldman. Claim 18 has similar limitations and likewise patentably defines over APA in view of Oldman.
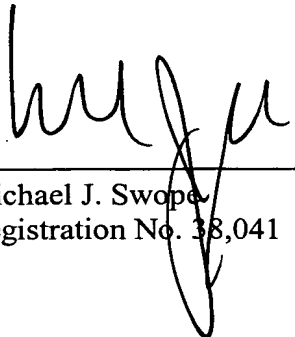
Inasmuch as claims 10-17 and 19-26 depend from claims 9 and 18, Applicants submit that they also patentably define over the cited references at least for the same reasons.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact Applicants' representative.

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